

State of Maine  
Board of Licensure in Medicine  
137 SHS, 161 Capitol Street  
Augusta, Maine 04333-0137  
November 10, 2015  
Minutes Index

---

I.	Call to Order .....	1
A.	Amendments to Agenda.....	1
B.	Scheduled Agenda Items.....	1
II.	Complaints .....	
1.	CR15-82.....	2
2.	CR15-83.....	2
3.	CR15-84.....	2-3
4.	CR15-85.....	3
5.	CR15-100.....	3
6.	CR15-101.....	3-4
7.	CR13-66.....	4
8.	CR14-45.....	4
9.	CR15-68.....	4
10.	CR15-97.....	4
11.	CR15-102.....	5
12.	CR15-106.....	5
13.	CR15-108.....	5-6
14.	CR15-110.....	6
15.	CR15-131.....	6
16.	CR15-63.....	6
17.	CR14-125.....	6
18.	CR15-66.....	7
19.	CR15-98.....	7
20.	CR15-99.....	7
21.	CR15-117.....	7
22.	CR15-122.....	7-8
23.	CR15-124.....	8
24.	CR15-127.....	8
25.	CR15-129.....	8
26.	CR15-130.....	8
27.	Intentionally left blank	
III.	Assessment and Direction .....	
28.	AD15-111 .....	9
29.	AD15-136 .....	9
30.	AD15-150 .....	9
31.	AD15-154 .....	9
32.	AD15-157 .....	9
33.	Intentionally left blank	
34.	Pending Adjudicatory Hearings and Informal Conferences report.....	9

	35. Consumer Outreach Specialist Feedback (none)	
	36. Physician Feedback.....	9
IV.	Informal Conference .....	9
V.	Minutes of October 13, 2015 .....	9
VI.	Board Orders & Consent Agreement Monitoring and Approval	
	A. Board Order	
	1. Carl T. Folkemer, M.D. ....	10
	B. Consent Agreement Monitoring and Approval	
	1. Bruce G. Manley, P.A.-C.....	10
VII.	Adjudicatory Hearing	
	A. Aasim Shaheen Sehbai, M.D. ....	10-11
VIII.	Remarks of Chairman (none)	
IX.	Remarks of Executive Director (none)	
X.	Assistant Executive Director's Monthly Report .....	11
	A. Complaint Status Report .....	11
	B. Licensing Feedback .....	11
XI.	Medical Director's Report (none)	
XII.	Remarks of Assistant Attorney General .....	11
XIII.	Secretary's Report	
	A. Licenses Issued	
	1. M.D. Licenses Issued.....	11-12
	2. P.A. Licenses Issued .....	12-13
	B. Applications for Individual Consideration (none)	
	C. Applications for Reinstatement (none)	
	D. Withdrawals	
	1. Withdraw License Application (none)	
	2. Withdraw License from Registration.....	13
	3. Withdraw License from Registration - Individual Consideration (none)	
	E. Licenses to lapse by operation of law .....	13-14
	F. Licensees requesting to convert to active status (none)	
	G. Renewal applications for review	
	1. Robert S. LaMorgese, M.D.....	14
	2. Preethi K. Venepalli, M.D .....	14
	3. Laurie A. Churchill, M.D.....	14
	4. Russell N. De Jong, M.D .....	15
	H. Physician Assistant Schedule II Authority Requests	
	1. Applications to Renew Schedule II Authority .....	15
	2. Applications for New Schedule II Authority .....	15
	3. Physician Assistant Schedule II Authority Requests – Individual Consideration (none)	
XIV.	Rulemaking	
	A. Draft Chapter 2 rule .....	15
XV.	Requests for Guidance (none)	
XVI.	Policy Review	
	A. Reports File Pursuant to 24 M.R.S. § 2505 and § 2506 .....	16
XVII.	Standing Committee Reports	
	A. Public Information Committee	

1. Newsletter update.....	16
XVIII. Board Correspondence (none)	
XIX. FSMB Material	
A. Public Member Scholarship.....	16
XX. FYI	
A. Diversion Alert Program.....	16
XXI. Other Business (none)	
XXII. Adjournment .....	16

**State of Maine  
Board of Licensure in Medicine  
137 SHS, 161 Capitol Street  
Augusta, Maine 04333-0137  
Minutes of November 10, 2015**

**Board Members Present**

Maroulla S. Gleaton, M.D., Board Chairman  
David D. Jones, M.D., Board Secretary  
Louisa Barnhart, M.D.  
David H. Dumont, M.D.  
David Nyberg, Ph.D.  
Christopher R. Ross, P.A.-C  
Lynne M. Weinstein

**Board Staff Present**

Dennis E. Smith, Executive Director  
Timothy E. Terranova, Assistant Executive Director  
Julie A. Best, Consumer Outreach Specialist  
Kathryn Levesque, Investigator  
Katie Feliciano, Investigative Secretary  
Maureen S. Lathrop, Administrative Assistant

**Attorney General's Office Staff Present**

Michael Miller, Assistant Attorney General  
Detective James Gioia

Dr. Sacchetti was absent.

---

The Board met in public session, with the exception of the times listed below, which were held in executive session. Executive sessions are held to consider matters which, under statute, are confidential (1 M.R.S. §405, 405(4), 405(6)(E); 10 M.R.S. §8003-B; 22 M.R.S. §1711-C; and 24 M.R.S. §2510). The Board moved, seconded, and voted the following executive session times. During the public session of the meeting, actions were taken on all matters discussed during executive session.

**EXECUTIVE SESSIONS**

**PURPOSE**

11:13 a.m. – 12:52 p.m.

Informal Conference

**RECESSES**

11:01a.m. – 11:13 a.m.

Break

12:55 p.m. – 1:23 p.m.

Lunch

2:11 p.m. – 2:20 p.m.

Break

3:35 p.m. – 3:45 p.m.

Break

**I. Call to Order**

Dr. Gleaton called the meeting to order at 9:03 a.m.

**A. Amendments to Agenda (none)**

**B. Scheduled Agenda Items**

1. 11:00 a.m. Informal Conference CR15-75
2. 1:00 p.m. Adjudicatory Hearing CR15-67 Aasim Shaheen Sehbai, M.D.

## **II. Complaints**

### **1. CR15-82**

Dr. Dumont moved to dismiss the complaint. Dr. Jones seconded the motion, which passed unanimously.

**MOTION:** This complaint is against an anesthesiologist regarding the care he and his partners provided to the patient. The patient complains about delays in surgery and abandonment by her providers, as well as inappropriate medical management. Review of the record shows the patient received appropriate care provided by a team of anesthesiologists working in a sequential fashion. Unfortunately, operating room delays are common and unpredictable, and occur for a variety of reasons. Medical management appeared to be routine and without significant complications. The anesthesia consent was reviewed and signed, but was not filled in completely to indicate that general anesthesia was to be used; however, this is the only anesthesia method employed for this type of procedure. This was an admitted oversight but did not influence the patient's care or outcome.

### **2. CR15-83**

Dr. Dumont moved to dismiss the complaint. Dr. Jones seconded the motion, which passed unanimously.

**MOTION:** This complaint is against an anesthesiologist regarding the care he and his partners provided to the patient. The patient complains about delays in surgery and abandonment by her providers, as well as inappropriate medical management. Review of the record shows the patient received appropriate care provided by a team of anesthesiologists working in sequential fashion. Unfortunately, operating room delays are common and unpredictable, and occur for a variety of reasons. Medical management appeared to be routine and without significant complications. The anesthesia consent was reviewed and signed, but was not filled in completely to indicate that general anesthesia was to be used; however, this is the only anesthesia method employed for this type of procedure. This was an admitted oversight but did not influence the patient's care or outcome.

### **3. CR15-84**

Dr. Dumont moved to dismiss the complaint. Dr. Jones seconded the motion, which passed unanimously.

**MOTION:** This complaint is against an anesthesiologist regarding the care he and his partners provided to a patient. The patient complains about delays in surgery and abandonment by her providers, as well as inappropriate medical management. Review of the record shows the patient received appropriate care provided by a team of anesthesiologists working in sequential fashion. Unfortunately, operating room delays are common and unpredictable, and occur for a variety of reasons. Medical management appeared to be routine and without significant complications. The anesthesia consent was

reviewed and signed, but was not filled in completely to indicate that general anesthesia was to be used; however, this is the only anesthesia method employed for this type of procedure. This was an admitted oversight but did not influence the patient's care or outcome.

#### 4. CR15-85

Dr. Dumont moved to dismiss the complaint. Dr. Jones seconded the motion, which passed unanimously.

**MOTION:** This complaint is against an anesthesiologist regarding the care he and his partners provided to the patient. The patient complains about delays in surgery and abandonment by her providers, as well as inappropriate medical management. Review of the record shows the patient received appropriate care provided by a team of anesthesiologists working in sequential fashion. Unfortunately, operating room delays are common and unpredictable, and occur for a variety of reasons. Medical management appeared to be routine and without significant complications. The patient is also concerned that the anesthesiologist was hiding a medical error that allegedly occurred postoperatively. The record shows that appropriate medications were administered for appropriate signs and symptoms. No errors occurred.

#### 5. CR15-100

Dr. Dumont moved to dismiss the complaint. Dr. Jones seconded the motion, which passed unanimously.

**MOTION:** This complaint is against a resident physician regarding the care she provided to a surgical patient. The patient complains that her surgery was delayed, that she received inappropriate care, and that the surgical team abandoned her. While the surgery was unfortunately delayed, this was beyond the control of this physician. Review of the hospital record shows that all aspects of the patient's medical and surgical care were appropriate. The resident did leave the hospital after surgery, but the patient was covered by the surgery night team, whom she saw the next morning, and she was not abandoned. In addition, the attending surgeon's group was available for problems. Any confusion about the patient needing to spend the night after surgery in the hospital occurred after the resident signed out for the day. If clarification was needed, the nursing staff could have contacted the surgery night team. All aspects of this physician's care were appropriate.

#### 6. CR15-101

Dr. Dumont moved to dismiss the complaint. Mr. Ross seconded the motion, which passed 6-1.

**MOTION:** This is a complaint against a surgeon regarding the care he provided to the patient. The patient complains about a delay in surgery on the day of the operation. She also complains that the surgery was done at the wrong facility, that she received inappropriate medications, was abandoned, was not appropriately screened for alcohol

issues, and that follow up was inadequate. The surgical start time was delayed for reasons beyond the surgeon's control. The surgeon explained why these procedures are done at the hospital campus instead of at an outpatient facility as they may require emergency return to the operating room and access to additional services. Review of the surgical and medical care of this patient shows appropriate management. Postoperatively there was confusion regarding the patient's need to stay overnight, but when questions arise this is generally handled by nursing staff with the surgery night team. This team, in conjunction with the attending surgeon, or his coverage, is always available to hospitalized patients. An alcohol history was obtained, but the history of the patient being a recovering alcoholic was missed. While important, this should not have placed the patient in jeopardy during brief surgery. Documentation shows appropriate follow up care by the surgeon. There is no evidence of violation of a Board rule or statute.

**7. CR13-66 Mark Braun, M.D.**

Dr. Jones moved to dismiss the complaint with a letter of guidance. Dr. Barnhart seconded the motion, which passed unanimously.

**MOTION:** In this case, the Board issued a complaint after the United States Department of Justice initiated an investigation into the physician's prescribing practices. After investigation by the Board and subsequent actions including an informal conference, the physician's attendance at a course, and further review of charts, the Board commends the physician on the changes that he has made in his prescribing behavior and overall care of chronic pain patients. The Board recommends that the physician continually assess and seek to improve his prescribing practices.

The letter of guidance will encourage the physician to: 1) continue to be mindful of the importance of the use and documentation of universal precautions in prescribing controlled medications; and 2) be mindful that his feelings of sympathy for a patient may sometimes interfere with his objective evaluations obtained through disciplined, empathetic understanding.

**8. CR14-45**

Dr. Jones moved to require that the physician undergo a \$3286 evaluation prior to adjudicatory hearing. Dr. Nyberg seconded the motion, which passed unanimously.

**9. CR15-68**

Dr. Nyberg moved to set the matter for an adjudicatory hearing and to preliminarily deny the physician's renewal application. Dr. Jones seconded the motion, which passed unanimously.

**10. CR15-97**

Dr. Nyberg moved to set the matter for an adjudicatory hearing and to authorize AAG Miller to negotiate a consent agreement for substance abuse monitoring. Dr. Dumont seconded the motion, which passed unanimously.

**11. CR15-102**

Dr. Jones moved to dismiss the complaint. Dr. Nyberg seconded the motion, which passed 6-0-0-1. Dr. Dumont was recused from this matter and left the room.

**MOTION:** The patient's daughter complains that her father's low platelets, identified by his cardiologist, were ignored by his primary care physician. Subsequently, the patient was admitted to a community hospital with very low platelets. The hospital did not have its own supply of platelets. The patient needed platelet transfusions provided by a tertiary care hospital, and ultimately needed transfer to a tertiary care hospital due to his low platelet count. Pending transfer, and after the family left to meet him at the accepting hospital, the patient had two cardiac arrests and died. Review of this complex case, although difficult and sad for the family, finds appropriate care by the primary care physician. The minimally low platelet count identified by the patient's cardiologist in April of 2012 was not ITP, the low platelet condition that brought the patient to the hospital in August of 2012. Admitting the patient to a community hospital and obtaining platelets from a tertiary care hospital is generally the standard of care in Maine. The low platelet count was not responsible for the patient's heart disease or cardiac arrest, and appropriate plans for transfer of this patient to a tertiary care hospital were pursued by the primary care physician when the patient was not improving. Appropriate consultations from specialists were also utilized throughout the patient's brief hospitalization.

**12. CR15-106**

Dr. Jones moved to dismiss the complaint. The motion was seconded by Dr. Nyberg, and passed unanimously.

**MOTION:** The patient complains that he had severe pain after surgery and the physician did not want to address it. The patient states that the surgeon performed a second surgery to correct misplacement of staples. The patient continued to have severe pain and subsequently needed two more surgeries by another surgeon to partially alleviate his pain. The surgeon reviewed his care of the patient and described the finding at the third surgery of a problem with the mesh used during the first surgery thought to be the cause of the patient's pain. He explained that this was not a preventable complication, but an accepted risk of surgery. The surgeon also discussed the specific reasons for his actions, the literature regarding this type of complication, and the findings of a pre-litigation panel after a notice of a claim by the patient. The Board find's that the physician's explanations were thoughtful and his apology sincere, the panel findings were unanimously in his favor, and the care was appropriate.

**13. CR15-108**

Ms. Weinstein moved to dismiss the complaint. Mr. Ross seconded the motion, which passed unanimously.

**MOTION:** The patient, who resides in an institutional setting, complains about the medical care he received from the physician and other providers working with the physician. Review of the record reveals reasonable evaluation and care for inguinal



hernia and subsequent genitofemoral neuralgia, as well as other various joint and muscle pains. The patient has a history of ATV trauma, but maintains a vigorous exercise schedule and on radiologic evaluation does not have significant spinal pathology requiring further evaluation or treatment.

**14. CR15-110**

Ms. Weinstein moved to dismiss the complaint. Dr. Dumont seconded the motion, which passed unanimously.

**MOTION:** The patient, who resides in an institutional setting, complains that he is not receiving adequate care for degenerative arthritis in his knee. The physician explains, and the medical record shows, that the patient has received appropriate ongoing care, including outside orthopedic consultation. While he is a likely candidate for total knee replacement in the future, he is too young to have that surgery now. More conservative measures to manage his pain and mobility have been provided.

**15. CR15-131**

Mr. Ross moved to dismiss the complaint. Dr. Dumont seconded the motion, which passed unanimously.

**MOTION:** The patient was referred to the physician by the emergency department following a myocardial infarction. The patient complains that he was treated unfairly by the physician who refused to prescribe controlled substances based upon the patient's history of drug use/misuse and made a driver medical evaluation report to the Department of Motor Vehicles regarding the patient's heart condition. Review of the medical record reveals no evidence of violation of a Board rule or statute.

**16. CR15-63**

Dr. Dumont moved to dismiss the complaint. Dr. Nyberg seconded the motion, which passed 6-0-0-1. Dr. Jones was recused from this matter and left the room.

**MOTION:** The patient alleges that the physician was rough in the handling of a questionably misplaced gastric feeding tube and was rude to him. The incident occurred in an office when a nurse practitioner asked the surgeon for advice in the care and management of the feeding tube. The patient's allegations are concerning, but they are disputed. There is a lack of evidence to support that violation of a Board rule or statute occurred.

**17. CR14-125**

Dr. Barnhart moved to set the matter for an adjudicatory hearing to resolve the complaint, to preliminarily deny the physician's renewal application, and to authorize AAG Miller to negotiate a consent agreement to include a two-year probation and a Board-approved practice monitor. Dr. Dumont seconded the motion, which passed unanimously.

**18. CR15-66**

Dr. Nyberg moved to investigate further. Dr. Barnhart seconded the motion, which passed unanimously.

**19. CR15-98 Arthur Blake, M.D.**

Dr. Nyberg moved to dismiss the complaint with a letter of guidance. Dr. Jones seconded the motion, which passed 6-0-0-1. Dr. Dumont was recused from this matter and left the room.

**MOTION:** In this case, the Board issued a complaint after receiving information that the physician had been terminated from employment, and discovering that he failed to report the termination on his renewal application. After investigation, the Board dismissed the allegation of unprofessional conduct that led to his termination. The Board also dismissed the allegation related to possible fraud, deceit or misrepresentation in connection with the application, but remains concerned. In his response to the complaint, the physician stated that because the termination occurred after the expiration date of his license, he did not believe that he was required to report action that occurred five days after that date and three days before he submitted his application for renewal, but rather that he could wait until his next biennial renewal to report the action. The Board advises that the application question at issue clearly seeks information through the date that the application is submitted.

The letter of guidance will remind the physician that: 1) honesty and candor are expected from all licensees; and 2) license applications must be accurate and complete, with explanations attached if matters of interpretation arise.

**20. CR15-99**

Dr. Nyberg moved to dismiss the complaint. Dr. Jones seconded the motion, which passed 6-0-0-1. Dr. Dumont was recused from this matter and left the room.

**MOTION:** The physician does not intend to practice medicine at this time and has allowed his license to lapse. The Board has insufficient evidence to proceed with the complaint.

**21. CR15-117**

Mr. Ross moved to investigate further. Dr. Nyberg seconded the motion, which passed 6-0-0-1. Dr. Jones was recused from this matter and left the room.

**22. CR15-122**

Dr. Jones moved to investigate further. Mr. Ross seconded the motion, which passed 6-0-0-1. Dr. Dumont was recused from this matter and left the room.

Dr. Jones moved to issue a complaint against the anesthesiologist who was involved in the medical care. Dr. Nyberg seconded the motion, which passed 6-0-0-1. Dr. Dumont was recused from this matter and left the room.

**23. CR15-124**

Mr. Ross moved to dismiss the complaint. Dr. Nyberg seconded the motion, which passed unanimously.

**MOTION:** A patient with an extensive history of spinal surgery complains about the pain management he received from his primary care physician. Review of the record indicates appropriate prescribing practices and pain contract adherence by the physician in the difficult setting of a patient with serious spinal pathology and chronic pain issues.

**24. CR15-127**

Mr. Ross moved to investigate further. Dr. Nyberg seconded the motion, which passed 6-0-0-1. Dr. Jones was recused from this matter and left the room.

**25. CR15-129**

Dr. Jones moved to dismiss the complaint. Dr. Dumont seconded the motion, which passed unanimously.

After further discussion, Dr. Jones moved to rescind his previous motion. Dr. Dumont seconded the motion, which passed unanimously.

Dr. Jones moved to allow the complainant to withdraw the complaint. Dr. Dumont seconded the motion, which passed unanimously.

**26. CR15-130**

Dr. Jones moved to dismiss the complaint. Dr. Dumont seconded the motion, which passed unanimously.

After further discussion, Dr. Jones moved to rescind his previous motion. Dr. Dumont seconded the motion, which passed unanimously.

Dr. Jones moved to allow the complainant to withdraw the complaint. Dr. Dumont seconded the motion, which passed unanimously.

**27. Intentionally left blank**

**III. Assessment and Direction**

**28. AD15-111**

Dr. Jones moved to file the issue. Dr. Dumont seconded the motion, which passed 6-0-1-0 with Dr. Barnhart abstaining.

**29. AD15-136**

Dr. Jones moved to issue a complaint (CR15-163). Dr. Nyberg seconded the motion, which passed unanimously.

**30. AD15-150**

Dr. Jones moved to issue a complaint (CR15-164). Dr. Barnhart seconded the motion, which passed unanimously.

**31. AD15-154**

Dr. Jones moved to issue a complaint (CR15-165). Dr. Barnhart seconded the motion, which passed 6-0-0-1. Dr. Dumont was recused from this matter and left the room.

**32. AD15-157**

Dr. Dumont moved to file the issue. Dr. Jones seconded the motion, which passed unanimously.

**33. Intentionally left blank**

**34. Pending Adjudicatory Hearings and Informal Conferences report**

This material was presented for informational purposes. No Board action was required.

**35. Consumer Outreach Specialist Feedback (none)**

**36. Physician Feedback**

This material was presented for informational purposes. No Board action was required.

**IV. Informal Conference CR15-75**

At the conclusion of the informal conference, Dr. Barnhart moved to set the matter for an adjudicatory hearing and authorize AAG Miller to negotiate a consent agreement to include a Board-approved practice monitor. Dr. Jones seconded the motion, which passed unanimously.

**V. Minutes for Approval**

Dr. Dumont moved to approve the minutes of the October 13, 2015 meeting. Dr. Jones seconded the motion, which passed unanimously.

**VI. Board Orders & Consent Agreement Monitoring and Approval**

**A. Board Order**

**1. Carl T. Folkemer, M.D. [Appendix A]**

Dr. Jones moved to accept the Board Order. Dr. Nyberg seconded the motion, which passed unanimously.

**B. Consent Agreement Monitoring and Approval**

**1. Bruce Manley, P.A.-C [Appendix B]**

Dr. Jones moved to accept the signed Consent Agreement. Dr. Nyberg seconded the motion, which passed unanimously.

**VII. Adjudicatory Hearing CR15-67 Aasim Shaheen Sehbai, M.D.**

The Board scheduled this hearing to hear evidence regarding complaint CR15-67. The Board considered the following issues: 1) whether Dr. Sehbai engaged in the practice of fraud, deceit or misrepresentation in obtaining a license or in connection with service rendered within the scope of the license issued; 2) whether Dr. Sehbai engaged in unprofessional conduct; and 3) whether Dr. Sehbai is the subject of disciplinary action by another state and whether his conduct resulting in the disciplinary action would, if committed in this state, constitute grounds for discipline under the laws of this state.

Dr. Sehbai appeared for the hearing and represented himself. Michael Miller, AAG represented the State of Maine. Rebekah J. Smith, Esq. served as Presiding Officer.

The State and the Respondent presented their cases and the Board heard witness testimony. After deliberation by the Board, the following motions were made:

Dr. Jones moved that the preponderance of evidence showed that the licensee engaged in fraud, deceit or misrepresentation in obtaining a license. Dr. Barnhart seconded the motion, which passed unanimously.

Dr. Jones moved that the preponderance of evidence did not show that the licensee engaged in unprofessional conduct. Dr. Barnhart seconded the motion, which passed unanimously.

Dr. Jones moved that the preponderance of evidence did show that the licensee was the subject of disciplinary action in another state for conduct that would, if committed in this state, constitute grounds for discipline under the laws of this state. Dr. Barnhart seconded the motion, which passed unanimously.

Dr. Jones moved to issue a reprimand, impose a fine of \$1,000.00 to be paid within six months, and a condition of probation, which takes effect upon commencing the practice of medicine in Maine, that the licensee must inform the Board of his employer. Dr. Barnhart seconded the motion, which passed unanimously.

A Board Order will be issued by Presiding Officer Rebekah J. Smith, Esq. and be presented to the Board at the next meeting.

**VIII. Remarks of Chairman (none)**

**IX. Remarks of Executive Director (none)**

**X. Assistant Executive Director's Monthly Report**

Mr. Terranova reported on the status of enhancements to the Board's licensing and renewal processes.

**A. Complaint Status Report**

As of November 1, 2015 there are sixty-nine complaints outstanding. One hundred eighteen complaints have been received year-to-date and one hundred thirty-two have been closed so far this year.

**B. Licensing Feedback**

This information was presented for informational purposes. No Board action was required.

**XI. Medical Director's Report (none)**

**XII. Remarks of Assistant Attorney General**

AAG Miller advised the Board of an action filed in Lincoln County Superior Court.

**XIII. Secretary's Report**

**A. Licenses Issued**

**1. M.D. Licenses Issued**

The following license applications have been approved by Board Secretary, David D. Jones, M.D. without reservation.

<u>NAME</u>	<u>SPECIALTY</u>	<u>LOCATION</u>
Acevedo, Jorge L.	Neurological Surgery	Lewiston
Antonyrajah, Bernadette C.	Pediatrics	Not Specified
Bali, Taha	Psychiatry & Neurology	York
Bobb, Wendell T.	Psychiatry & Neurology	Not Specified
Brantley, Kenneth M.	Internal Medicine	Lewiston
Buot, Vanessa G. C.	Internal Medicine	Lewiston
Burns, Michael J.	Physical Medicine & Rehabilitation	Augusta
Chemtob, Josef	Internal Medicine	Not Specified

Cohen, Adam B.	Neurology	York
Davila, Jeffrey N.	Orthopedic Surgery	Lewiston
De Angelis, Lawrence J.	Anesthesiology	Greenville
Deblasi, Richard A.	Psychiatry/ Neurology	Augusta
Elefant, Ronen	General Surgery	Not Specified
Fishman, Victor	Gastroenterology	Lewiston
Freeman, Bridget E.	Pediatrics	Lewiston
Garcia, Michelle	Family Medicine	Not Specified
Gleckman, Aaron M.	A&C Pathology	Portland
Hammesfahr, James F.	Orthopedic Surgery	Not Specified
Hanna, Kathryn H.	Orthopedic Surgery	Portland
Hartman, Albert F.	Preventive Medicine/ Public Health	Lewiston
Haseeb, Ateeq A.	Psychiatry & Neurology	Not Specified
Hathaway, Jessica A.	Anesthesiology	Cumberland County
Heap-Chester, Heidi A.	Family Medicine	Kennebunk
Henderson, Kimberly J.	Emergency Medicine	Not Specified
Kamesan, Janani	Diagnostic Radiology	Telemedicine
Klokeid, Brian	Emergency Medicine	Auburn
Koussa, Ghassan J.	Internal Medicine	York
Kovar, Joyce M.	A&C Pathology	Portland
Lespinasse, Maggy	Pediatrics	Bangor
Liegner, Adam T.	Family Medicine	Central & Southern Maine
Plasse, Peter J.	Emergency Medicine	Dover-Foxcroft
Potter, Darrell J.	Orthopedic Surgery	Lewiston
Praff, Giora A.	Internal Medicine	Houlton
Ratanamaneechat, Suphagaphan	Internal Medicine	Skowhegan
Reda, Haatem M.	Psychiatry & Neurology	Not Specified
Remick, Scot C.	Internal Medicine/ Oncology	Portland
Romac, Michael D.	Family Medicine	Wiscasset
Samaniego, Susana	General Surgery	Houlton
Smillie, Kent	Orthopedic Surgery	Portland
Stone, Dennis	Anesthesiology	Not Specified
Sutton, Krysten E.	Ob/Gyn	Dover-Foxcroft
Tedesco, Kurtis L.	Diagnostic Radiology	Teleradiology
Tse, Julie Y.	A&C Pathology	Not Specified
Winkes, Adeline	Pediatrics	Not Specified
Winters III, John P.	Internal Medicine	Portland

## 2. P.A. Licenses Issued

The following physician assistant license applications have been approved by Board Secretary, David D. Jones, M.D. without reservation.

<u>NAME</u>	<u>LICENSE</u>	<u>PSP</u>	<u>LOCATION</u>
Grandy, John	Inactive	none	none

Nilsson, Christopher	Inactive	none	none
Rosa, Sara	Inactive	none	none
Walker, Ernest	Active	Bell, Michael	Calais

**B. Applications for Individual Consideration (none)****C. Applications for Reinstatement (none)****D. Withdrawals****1. Withdraw License Application (none)****2. Withdraw License from Registration**

Dr. Dumont moved to approve the following licensees' requests to withdraw from registration. Dr. Nyberg seconded the motion, which passed unanimously.

<u>NAME</u>	<u>LICENSE NUMBER</u>
Adams, Erik S.	MD14805
Bajwa, Harjeet S.	MD16129
Basata, Samir	MD19360
Bledsoe, James H.	MD16973
Dole, Richard R.	MD5711
Maloney, Ann E.	MD16888
McCarthy, Kevin E.	MD15450
Rand, Peter W.	MD4886
Roth, George R., Jr.	MD16255
Schultze-Goldblatt, Pamela R.	MD16808
Wear-Finkle, Deborah J.	MD15845
Wittram, Conrad	MD17588

**3. Withdraw License from Registration – Individual Consideration (none)****E. Licenses to Lapse by Operation of Law**

The following licenses lapsed by operation of law effective October 21, 2015.

<u>NAME</u>	<u>LICENSE NUMBER</u>
Nonyelu, Anyichie	MD19446
Baksiene, Ryte	MD19563
Barton, Tonia	MD19651
Best, Gianina	MD19796
Bonza, Sarah H.	MD19541
Call, Linda P.	MD19138
Carton, Barbara	MD13838



Condit, Roger E.	MD6138
Crowley, Heather L.	MD18109
Depetrillo, John C.	MD19972
Eichhorn, John H.	MD13161
Embury, Stuart P.	MD18179
Ferguson, Eugene J.	MD16549
Filardi, Gerald A.	MD18169
Garcia, Edward R.	MD17917
Gershman, Karen	MD11766
Gratwick, Geoffrey M.	MD8989
Harmych, Brian M.	MD19862
Hromanik, Michael J.	MD18788
Kasperski, Aimee	PA1179
Morgan, Robert H.	PA234
Nieuwkerk, Willem	MD5514
Pelletier, Scott P.	MD19522
Rosario, Adriana	MD18203
Rowland, Timothy N.	MD8537
Shokrian, David	MD19820
Smyth, Paul G.	MD16557
Thayer, Wesley P.	MD18276
Urquhart, Christina U.	PA147
Weidner, Holly G.	PA335

**F. Licensees Requesting to Convert to Active Status (none)**

**G. Renewal Applications for Review**

**1. Robert S. LaMorgese, M.D.**

The Licensure Committee moved to preliminarily deny Dr. LaMorgese's renewal application. The motion passed unanimously.

**2. Preethi K. Venepalli, M.D.**

The Licensure Committee moved to allow Dr. Venepalli to withdraw her license. The motion passed unanimously.

**3. Laurie A. Churchill, M.D.**

The Licensure Committee moved to grant Dr. Churchill's request for a waiver to renew her license while a complaint is outstanding. The motion passed unanimously.

#### 4. **Russell N. De Jong, M.D.**

The Licensure Committee moved to table the application pending receipt of further information. The motion passed unanimously.

### H. **Physician Assistant Schedule II Authority Requests**

#### 1. **Applications to Renew Schedule II Authority**

The following renewal requests for Schedule II prescribing authority have been approved by Board Secretary, David D. Jones, M.D. without reservation.

<u><b>NAME</b></u>	<u><b>PSP</b></u>	<u><b>LOCATION</b></u>
Chalmers, Jessica	Thaler, Frederick	Kittery
Hall, Erika	Preston, David	North Vassalboro
Laliberte, Lorraine	Cathcart, Wendy	Portland
Lebreton-Gauthier, Kendra	Turner, James	Bangor
Richardson, Anne	Rughani, Anand	Scarborough
Sheppard, William	McDermott, David	Dover-Foxcroft
Tyler, M. Alegra	Pattavina, Charles	Bangor

#### 2. **Applications for New Schedule II Authority**

The following new requests for Schedule II prescribing authority have been approved by Board Secretary, David D. Jones, M.D. without reservation.

<u><b>NAME</b></u>	<u><b>PSP</b></u>	<u><b>LOCATION</b></u>
Brown, Suzanne	Barnes, John	Winthrop
Debiasio, Mark	Sawyer, Gregory	South Portland
Green, Dana	Caine, Brian	Bar Harbor
Greven, Sarah	Reilly, James	Lewiston
Hart, Beth	Weigel, Tracy	Portland
Nichols, Karen	Koffman, David	Milo
O'Toole-Roy, Teagan	Cheff, Susan	Old Town
Sirois, Sarah	Morton, Paul	Augusta
Walker, Ernest	Bell, Michael	Calais
Ely, Patrick	Mullen, James III.	Brunswick

#### 3. **Physician Assistant Schedule II Authority Requests – Individual Consideration (none)**

### XIV. **Rulemaking**

#### A. **Draft Chapter 2 rule**

Dr. Jones moved to formally propose Chapter 2 Joint Rule Regarding Physician Assistants. Mr. Ross seconded the motion, which passed unanimously.

**XV. Requests for Guidance (none)**

**XVI. Policy Review**

**A. Reports Filed Pursuant to 24 M.R.S. § 2505 and § 2506**

Dr. Jones moved to retire two current Board policies, Peer Reports Made Under 24 M.R.S.A. § 2505 and Notification to 24 M.R.S. § 2505 and § 2506, and to approve a new policy, Reports filed pursuant to 24 M.R.S. § 2505 and § 2506. Dr. Dumont seconded the motion, which passed unanimously.

**XVII. Standing Committee Reports**

**A. Public Information Committee**

The Board discussed plans to transition to an electronic newsletter.

**XVIII. Board Correspondence (none)**

**XIX. FSMB Material**

**A. Public Member Scholarship**

This information was presented for informational purposes. No Board action was required.

**XX. FYI**

**A. Diversion Alert Program**

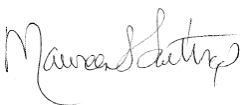
This information was presented for informational purposes. No Board action was required.

**XXI. Other Business (none)**

**XXII. Adjournment**

Dr. Jones moved to adjourn the meeting at 5:30 p.m. Mr. Ross seconded the motion, which passed unanimously.

Respectfully submitted,



Maureen S. Lathrop  
Administrative Assistant

STATE OF MAINE BOARD OF LICENSURE IN MEDICINE

In Re: Carl T. Folkemer, M.D.	)	
	)	DECISION AND ORDER
	)	
Complaint CR 14-194 and Review of Application	)	
for License Renewal	)	

**I. PROCEDURAL HISTORY**

Pursuant to the authority found in 5 M.R.S. §§ 9051 et seq., 10 M.R.S. § 8003(5), and 32 M.R.S. § 3282-A, the State of Maine Board of Licensure in Medicine ("Board") met in public session at its offices in Augusta, Maine, on October 13, 2015. The purpose of the meeting was to conduct an adjudicatory hearing to determine whether grounds existed to impose discipline on the medical license of Carl T. Folkemer, M.D. ("Licensee"), and to determine whether his application for renewal of his medical license should be granted.

By letter dated September 8, 2015, the Licensee was notified of the date of the hearing. On September 14, 2015, following a prehearing conference, a Conference Order was issued setting deadlines for the submission of exhibits and witness lists.

A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members were Louisa Barnhart, M.D.; David H. Dumont, M.D.; David D. Jones, M.D.; David Nyberg, Ph.D., Public Member; Christopher R. Ross, P.A.-C; Peter J. Sacchetti, M.D.; Lynne Weinstein, Public Member; and Chair Maroulla Gleaton, M.D. Dr. Folkemer was present and represented himself. Robert Perkins, Esq., Assistant Attorney General, represented the State of Maine. Rebekah Smith, Esq., served as Hearing Officer. The hearing was held in accordance with the requirements of the Administrative Procedures Act, 5 M.R.S. §§ 9051 et seq.

Joint Exhibits #1 to #22 were admitted without objection. Joint Exhibits ("Jt. Exh.") #3 and #9 are hereby marked as confidential due to the fact that they contain identifying patient information. The Board took notice of its statutes and rules and confirmed that no participating member had any conflict of interest or bias that would prevent him or her from rendering an impartial decision in this matter. Each party presented an opening statement. The State presented the Licensee and Gage Blair, Compliance Analyst at the Maryland Board of Physicians, as witnesses. The Licensee presented Dr. Kunmi Majekodunmi, his former supervisor, as a witness. Ms. Blair and Dr. Majekodunmi testified by telephone. Each party made a closing statement. The Board then deliberated and made the following findings of fact and conclusions of law by a preponderance of the credible evidence regarding the allegations against Dr. Folkemer and his eligibility for renewal of his license.

## **II. FINDINGS OF FACTS**

1. The Licensee entered into a Consent Order with the Maryland Board of Physicians ("Maryland Board") in February 2000 after the Board found as a matter of law that the Licensee had violated the terms and conditions of a May 27, 1998, Corrective Action Agreement and had failed to meet appropriate standards for delivery of quality medical and surgical care in violation of the Maryland Health Occupations Code. (Jt. Exh. #2.)
2. The Licensee was granted a Maine license on March 10, 2010.
3. On November 18, 2010, the Maryland Board issued a Consent Order in which it concluded that the Licensee had failed to meet appropriate standards for the delivery of quality medical care and failed to keep adequate medical records with regard to several patients in violation of the Maryland Health Occupations Code. (Jt. Exh. #2.) The Maryland Board suspended the Licensee's license for a minimum period of one year with all but ninety days stayed and placed the Licensee on probation for a minimum period of three years. (Jt. Exh.

- #2.) The Licensee was required to complete a tutorial in medical record keeping as well as a course in appropriate prescribing practices involving opioid medication and benzodiazepines and appropriate pain management practices. (Jt. Exh. #2.) The Licensee was also restricted from practicing pain management medicine and was not allowed to dispense or prescribe any opiates or benzodiazepine medications to any patient or individual for longer than three days and only in an emergency situation. (Jt. Exh. #2.)
4. Effective July 21, 2011, the Licensee entered into a Consent Agreement with the State of Maine Board of Licensure in Medicine. (Jt. Exh. #4.) In the Consent Agreement, the Licensee admitted that his recent discipline by the Maryland Board, together with the facts and circumstances underlying that discipline, constituted unprofessional conduct and grounds for the Maine Board to impose discipline pursuant to 32 M.R.S. § 3282-A(2)(F). (Jt. Exh. #4.) The Licensee agreed to complete a medical recordkeeping course as well as a course in appropriate prescribing practices involving opioid medications and benzodiazepines and appropriate pain management practices. (Jt. Exh. #4.) The Licensee, upon commencement of an active medical practice in Maine, would be placed on probation for three years with a restriction that he not practice pain management medicine and not dispense or prescribe any opiates or benzodiazepine medications to any patient for longer than three days and only in emergency situations. (Jt. Exh. #4.)
5. The Licensee worked in the office of Dr. Kunmi Majekodunmi in Maryland for approximately three years without pay while he was on probation under the Maryland Board's Consent Order. (Testimony of Majekodunmi.) The Licensee undertook this unpaid work to show the Maryland Board that he was seeing patients, was keeping good records, and was not prescribing narcotics. (Testimony of Majekodunmi.) Dr. Majekodunmi was approved by the Maryland Board to be the Licensee's supervisor under

the Consent Order. (Testimony of Blair.) The Licensee would see a patient and then Dr. Majekodunmi would enter the treatment room to review what was decided during the visit and ask the patient if he or she had any questions. (Testimony of Majekodunmi.) Dr. Majekodunmi issued quarterly reports to the Maryland Board over the course of the three years, with the last report issued on June 30, 2014, after which the Licensee relocated to Maine. (Testimony of Majekodunmi.) While working in Dr. Majekodunmi's office, the Licensee did not write prescriptions for narcotics or any controlled substances. (Testimony of Majekodunmi.)

6. In early December 2013, the Maryland Board became aware of the Licensee's employment at a pain clinic during an investigation of Dr. Amile Korangy, who ran the clinic and whose license was suspended by the Maryland Board in November 2013. (Testimony of Blair.) The Maryland Board was informed that a patient had tried to fill a prescription for oxycodone on which Dr. Korangy's name was crossed off and the Licensee's name was written in. (Testimony of Blair.)
7. On March 18, 2014, the Licensee wrote a letter to the Maryland Board representing that he had faithfully and completely complied with the Consent Order issued by the Board in November 2010. (Jt. Exh. #22.) The Licensee requested that the Maryland Board meet with him at its earliest opportunity to have the Consent Order acknowledged as satisfied. (Jt. Exh. #22.) On March 25, 2014, the Maryland Board notified the Licensee that it was not able to consider his request to end his probation because there was a patient complaint pending against him. (Jt. Exh. #7.)<sup>1</sup>
8. During an interview with the Maryland Board on June 20, 2014, the Licensee reported that he had worked for Dr. Korangy three days a week starting December 2, 2013, then one day

---

<sup>1</sup> The substance of that unrelated complaint was not at issue in the present proceeding.

a week, with the last day being at least six weeks prior to his interview. (Jt. Exh. #9.) The Licensee admitted during the interview that in early December 2013, he had issued prescriptions for pain management medications in violation of his terms of probation. (Jt. Exh. #9.) Although Gage Blair, Compliance Analyst at the Maryland Board of Physicians, had several conversations in December 2013 with the Licensee about his work at Dr.

Korangy's office and the Board's concerns about that office, the Licensee did not disclose that he had written prescriptions in violation of the Consent Order. (Testimony of Blair.) In fact, the Licensee indicated that Dr. Korangy had asked him to write such prescriptions but he had refused. (Testimony of Blair.)

9. At 2:24 p.m. on July 16, 2014, staff at the Maryland Board faxed to the Licensee's Maryland attorney a Cease and Desist Order. (Jt. Exh. #10.) At 2:32 p.m. on July 16, 2014, the Cease and Desist Order was emailed to the Licensee's Maryland attorney. (Jt. Exh. #10.) The Order required that the Licensee cease and desist from practicing pain management medicine and prescribing opiates or benzodiazepine medications to any patient or individual for longer than three days and only in emergency situations. (Jt. Exh. #10.) The Maryland Board found that in his interview, taken under oath, the Licensee acknowledged that he had prescribed opioid medications on his first practice day at the office of Dr. Korangy in December 2013 and that although the Licensee stated that he thereafter refused to prescribe further opioids while working in that medical office, he had in fact written at least one prescription for opioids and several for benzodiazepines after his first day at the practice. (Jt. Exh. #10.) Specifically, the Maryland Board found that the Licensee had written prescriptions for medications he was prohibited from prescribing on December 2, December 3, and December 8, 2013. (Testimony of Blair.) The Maryland Board concluded that the Licensee had violated a condition of the Consent Order by



practicing pain management medicine and prescribing opiates and benzodiazepines to patients for longer than three days and in non-emergency situations. (Jt. Exh. #10.) The Maryland Board did not investigate the Licensee's prescriptions after December 8, 2013. (Testimony of Blair.) The Maryland Board concluded that the Licensee was guilty of unprofessional conduct in the practice of medicine and posed a serious risk to the health, safety, and welfare of patients. (Jt. Exh. #10.)

10. At 4:28 p.m. on July 16, 2014, the Licensee emailed staff at the Maine Board of Licensure in Medicine to request that the Maine Board terminate his Consent Order on the basis that he had met the requirements of that Order and he was unable to obtain employment in Maine while the Order stood. (Jt. Exh. #11.) Because the Licensee had never practiced in Maine, the practice restrictions in the Maine Board's Consent Agreement had never been applied. (Jt. Exh. #4.)
11. On July 28, 2014, through a disciplinary alert report, the Maine Board was notified that the Maryland Board had issued a Cease and Desist Order against the Licensee. (Jt. Exh. #12.)
12. On August 6, 2014, the Licensee wrote to the Maine Board to indicate that he had complied with the Maryland Board Consent Order for more than three years but that he made a mistake in early December 2013 when pressured by Dr. Korangy to provide pain medications for patients. (Jt. Exh. #13.) The Licensee acknowledged that he prescribed narcotics inappropriately on his first day in Dr. Korangy's office but stated that he did not remember prescribing Xanax inappropriately three times during his initial days in Dr. Korangy's office. (Jt. Exh. #13.)
13. On October 23, 2014, after a Show Cause Hearing, the Maryland Board issued an Order holding that the preponderance of the evidence supported a conclusion that the Licensee had written ten prescriptions for opiates and three prescriptions for benzodiazepines to be

taken for longer than three days in the case of non-emergencies in December 2013. (Jt. Exh. #14.) The Maryland Board noted that the Licensee had explained that he violated the Consent Order due to tremendous financial pressure. (Jt. Exh. #3.) The Board held that given the Licensee's long disciplinary history, his violation of the Consent Order demonstrated a lack of judgment necessary to practice medicine in the State of Maryland and permanently revoked his license. (Jt. Exh. #14.)

14. By letter dated November 18, 2014, the Maine Board notified the Licensee that a complaint was pending against him based on his conduct in Maryland and his efforts to lift the restrictions on his Maine license. (Jt. Exh. #15.)

15. The Licensee's current Maine license expired on June 30, 2015, but remains active pursuant to 5 M.R.S. § 10002 due to his submission of a timely renewal application submitted on July 2, 2015. (Jt. Exh. #19.) In his renewal application, the Licensee indicated that he had been subject to disciplinary action. (Jt. Exh. #19.) In his description of that disciplinary action, he referenced the 2010 Consent Order from the Maryland Board.

(Jt. Exh. #19.) The Licensee indicated that he had complied with all parts of the Consent Order except one, stating that on December 3, 2013, he had written ten narcotic prescriptions that were for more than three days. (Jt. Exh. #19.) He indicated that he had advised the Maryland Board of his mistake, corrected it, and not repeated it, but the Maryland Board had revoked his license regardless. (Jt. Exh. #19.) The Licensee reported that he had turned in his DEA license so that he could not make that mistake again. (Jt. Exh. #19.)

16. At hearing, the Licensee testified that because of the Maryland Consent Order, he was not able to get a paid position and as a result had no income for three years. (Testimony of Licensee.) He underwent a foreclosure on his home and bankruptcy. (Testimony of

Licensee.) The Licensee testified that when Dr. Korangy offered him a position in his pain management clinic, Dr. Korangy indicated that he was trying to transition his office to provide primary care. (Testimony of Licensee.) Although it was not consistent with the testimony of Ms. Blair, the Licensee testified that he checked in with the Maryland Board every day that he went to work at Dr. Korangy's office. (Testimony of Licensee.) The Licensee testified that all the patients that he saw on his first day in Dr. Korangy's office sought narcotics and Dr. Korangy pressured him to provide prescriptions. (Testimony of Licensee.) The Licensee testified that he was not sure if he had informed Dr. Korangy of his practice restriction not to prescribe narcotics. (Testimony of Licensee.) The Licensee testified that he informed Dr. Korangy on his second day in the office that he would not be prescribing narcotics again. (Testimony of Licensee.) The Licensee acknowledged but could not explain how he had prescribed another prohibited substance on December 8. (Testimony of Licensee.) The Licensee testified that he knew that Dr. Korangy was having difficulty with the Maryland Board but did not know that Dr. Korangy's license had been suspended when he began to work in his office. (Testimony of Licensee.) Although it was contrary to Ms. Blair's testimony, the Licensee testified that he was fairly certain he told the Maryland Board of his mistake prior to his interview with them on June 20, 2014. (Testimony of Licensee.)

### **III. GOVERNING STATUTES AND RULES**

1. The State of Maine Board of Licensure in Medicine may modify, restrict, suspend, revoke, or refuse to renew a license if the licensee engaged in the practice of fraud, deceit, or misrepresentation in obtaining a license or in connection with service rendered within the scope of the license issued. 32 M.R.S. § 3282-A(2)(A).

2. The Board may modify, restrict, suspend, revoke, or refuse to renew a license if the licensee demonstrated incompetence in the practice for which he is licensed: A licensee is considered incompetent in the practice if he engaged in conduct that evidenced a lack of ability or fitness to discharge the duty owed by the licensee to a client or patient or the general public or if he engaged in conduct that evidenced a lack of knowledge or inability to apply principles or skills to carry out the practice for which he is licensed. 32 M.R.S. § 3282-A(2)(E)(1) & (2).
3. The Board may modify, restrict, suspend, revoke, or refuse to renew a license if the licensee engaged in unprofessional conduct. A licensee is considered to have engaged in unprofessional conduct if he violates a standard of professional behavior that has been established in the practice for which he is licensed. 32 M.R.S. § 3282-A(2)(F).
4. The Board may modify, restrict, suspend, revoke, or refuse to renew a license on the basis of a revocation, suspension, or restriction of a license to practice medicine or other disciplinary action; denial of an application for a license; or surrender of a license to practice medicine following the institution of disciplinary action by another state if the conduct resulting in disciplinary or other action involving the license would, if committed in the State of Maine, constitute grounds for discipline under the laws or rules of the State Maine. 32 M.R.S. § 3282-A(2)(M).
5. The Board may modify, restrict, suspend, revoke, or refuse to renew a license on the basis that a licensee engaged in an activity requiring a license under the governing law of the Board that is beyond the scope of acts authorized by the license held. 32 M.R.S. § 3282-A(2)(N).

6. The Board may modify, restrict, suspend, revoke, or refuse to renew a license on the basis that a licensee did not comply with an order or consent agreement of the Board. 32 M.R.S. § 3282-A(2)(P).

#### **IV. CONCLUSIONS OF LAW**

The Board, considering the above facts and those alluded to in the record but not referred to herein, determined that it had jurisdiction over Licensee Carl T. Folkemer, M.D., and concluded as follows with regard to the allegations in the notice of hearing:

1. By unanimous vote, that the Licensee engaged in the practices of fraud, deceit, and misrepresentation in attempting to obtain a change in his conditions of licensure and to renew his license to practice medicine in the State of Maine in violation of 32 M.R.S. § 3282-A(2)(A).
2. By a vote of seven to one, that the Licensee demonstrated incompetence in the practice for which he is licensed by engaging in conduct that evidenced a lack of principles or skills to carry out the practice for which he is licensed, specifically by failing to remember his history of prescription writing that was in violation of his limited license in the State of Maryland and by prescribing medications that he was not authorized to prescribe in order to alleviate his financial situation in violation of 32 M.R.S. § 3282-A(2)(E)(1) & (2).
3. By unanimous vote, that the Licensee engaged in unprofessional conduct by violating his 2010 Consent Order with the State of Maryland, which was a violation of a standard of professional behavior in the practice of medicine. 32 M.R.S. § 3282-A(2)(F).
4. By unanimous vote, that the Licensee was the subject of disciplinary action in Maryland for conduct that would, if committed in the State of Maine, constitute grounds for discipline, including incompetence; unprofessional conduct; engaging in activity requiring a license under the governing law of the Board that was beyond the scope of acts authorized by the

license; and noncompliance with an order or consent agreement of the Board. 32 M.R.S. §§ 3282-A(2)(M), 3282-A(2)(E), 3282-A(2)(F), 3282-A(2)(N) & 3282-A(2)(P).

5. By unanimous vote, denied the Licensee's renewal application.

Dated: November 1<sup>st</sup>, 2015



Maroulla S. Gleaton, M.D.

Chair, State of Maine Board of Licensure in Medicine

#### **V. APPEAL RIGHTS**

Pursuant to the provisions of 10 M.R.S. § 8003(5) and 5 M.R.S. § 11002(3), any party that appeals this Decision and Order must file a Petition for Review in the Superior Court within 30 days of receipt of this Order. The petition shall specify the person seeking review, the manner in which they are aggrieved and the final agency action which they wish reviewed. It shall also contain a concise statement as to the nature of the action or inaction to be reviewed, the grounds upon which relief is sought and a demand for relief. Copies of the Petition for Review shall be served by certified mail, return receipt requested, upon the State of Maine Board of Licensure in Medicine, all parties to the agency proceedings, and the Attorney General.

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

In re: )  
Bruce G. Manley, PA-C ) CONSENT AGREEMENT  
Complaint No. CR15-65 )

This document is a Consent Agreement, effective when signed by all parties, regarding disciplinary action against the license to render medical services in the State of Maine held by Bruce G. Manley, PA-C. The parties to the Consent Agreement are: Bruce G. Manley, PA-C ("Mr. Manley"), the State of Maine Board of Licensure in Medicine ("the Board") and the State of Maine Department of the Attorney General. This Consent Agreement is entered into pursuant to 10 M.R.S. § 8003(5)(B) and 32 M.R.S. § 3282-A.

STATEMENT OF FACTS

1. The Board first issued Mr. Manley a license to practice as a physician assistant in Maine on December 18, 1998 (License number PA599). Mr. Manley most recently rendered medical services in the emergency department of a hospital.
2. By letter dated May 11, 2015, the Board received information from the Maine Medical Professionals Health Program ("MPHP") reporting that Mr. Manley, a voluntary participant in MPHP, tested positive for morphine on April 27, 2015, and admitted to his case manager to a "relapse of substance use."
3. On May 12, 2015, the Board reviewed the foregoing information and voted to initiate a complaint. On May 27, 2015, Complaint No. CR15-65 was sent to Mr. Manley for a response.

4. On July 13, 2015, the Board received Mr. Manley's response to the complaint in which he admitted that he ingested morphine tablets that he had previously obtained from a relative, and that he had relapsed. He also informed the Board that he was in a residential treatment program.

5. On September 3, 2015, the Board received a report pursuant to 24 M.R.S. § 2506 that Mr. Manley's employment was terminated on August 19, 2015, after he voluntarily admitted to ingesting an "illegal substance" and coming to work on April 27, 2015 with the substance in his system.

6. At its meeting on September 8, 2015, the Board reviewed the complaint, response, and related information, and voted to set this matter for an adjudicatory hearing. In lieu of holding a hearing, the Board also voted to offer Mr. Manley this Consent Agreement. Should Mr. Manley decide to accept this Consent Agreement, he should sign it and date it in front of a notary and return it to the Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before October 23, 2015.

#### COVENANTS

7. Mr. Manley admits the foregoing facts and that such conduct constitutes grounds for discipline pursuant to 32 M.R.S. 3282-A(2)(B) for misuse of alcohol, drugs or other substances that has resulted or may result in the licensee performing services in a manner that endangers the health or safety of patients.



8. Mr. Manley agrees to accept the following discipline for the conduct described above:

- a. A REPRIMAND for misuse of drugs and for working after ingesting a controlled substance that was not prescribed to him;
- b. A CIVIL PENALTY in the amount of One Thousand Dollars (\$1,000.00), payment of which shall be made by certified check or money order made payable to "Treasurer, State of Maine," and remitted to Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137, within thirty (30) days of the execution of this Consent Agreement.
- c. A LICENSE PROBATION for five (5) years following the execution of this Consent Agreement. The following specific conditions of probation are imposed:

(1) Abstinence. Mr. Manley shall totally refrain from the use or possession of any and all Prohibited Substances except drugs that are dispensed or prescribed to him by a licensed health care practitioner for legitimate medical purposes. "Prohibited Substances" as used throughout this Consent Agreement shall mean all controlled substances, alcohol, illegal substances, and all mood and/or consciousness or mind-altering substances, whether illicit or not. Upon receipt of a report of use or possession of any Prohibited Substance by Mr. Manley, Mr. Manley's license shall be immediately and automatically suspended until an adjudicatory hearing may be held. Notice of such suspension of license may be provided orally or in writing.

(2) Enrollment and Successful Participation in the Maine Medical Professionals Health Program. Mr. Manley shall enroll in and successfully participate in the Maine Medical Professionals Health Program (MPHP) pursuant to a written contract approved by the Board. **No later than October 23, 2015**, Mr. Manley shall provide the Board with documentation of his enrollment in and participation in the MPHP. Mr. Manley understands and agrees that his written contract with the MPHP must be approved by the Board, and that any changes to his written contract with the MPHP must be approved by the Board. In complying with this provision, Mr. Manley expressly authorizes the

Board, Board counsel, and Board staff to have unrestricted access to: (a) the written contract with the MPHP, and any amendments thereto; (b) all records pertaining to his compliance with his MPHP contract; and (c) all records, including but not limited to substance abuse treatment records and laboratory reports, in the possession of the MPHP regarding Mr. Manley.

The MPHP contract must at a minimum require: (i) that Mr. Manley undergo testing or monitoring for the presence of Prohibited Substances; (ii) that he participate in substance misuse counseling and treatment as recommended by MPHP or his health care providers; (iii) that he have a physician workplace monitor or monitors who must be able to make reports to MPHP or the Board based upon direct observation of Mr. Manley; and (iv) that provides that any violation of any provision in the contract must be reported to the Board within one business day. Mr. Manley agrees that any failure to participate in the MPHP program or comply with any requirement contained in his MPHP contract constitutes a violation of this Consent Agreement and shall result in the immediate, indefinite, and automatic suspension of his license until the Board holds a hearing on the matter. Notice of such suspension of license may be provided orally or in writing.

(3) Rebuttable Presumption and Admission into Evidence of Test Results. It is agreed and understood that a test evidencing the presence of any Prohibited Substance, shall raise a rebuttable presumption that such substance was in fact used by Mr. Manley. Such a positive test result shall alone, including any test result showing the presence of ethyl glucuronide, ethyl sulfate, or phosphatidyl ethanol, be sufficient to prove the use of the Prohibited Substance by Mr. Manley. Mr. Manley further agrees that the result of the test shall be admitted into evidence in any proceeding regarding his license, whether before the Board or before a Court of competent jurisdiction.

(4) Accidental Ingestion/Exposure Not a Defense. Mr. Manley acknowledges that the ingestion of poppy seeds, mouthwash and over the counter cough or cold medicines or remedies has from time to time been raised as a defense to a positive screen result for morphine, opiates and/or alcohol. For that reason, Mr. Manley agrees to refrain from ingesting poppy seeds in any food substances, mouthwash and over the counter cough or cold medicines or remedies during the period of monitoring. In the event that Mr. Manley has a positive screen for morphine, opiates and/or alcohol, Mr. Manley agrees that the ingestion of poppy seeds and/or mouthwash and/or over the counter cough or cold medicines shall not constitute a defense to such a positive screen. In addition, Mr. Manley acknowledges that the use of alcohol-based hand sanitizers has from time to time been raised as a defense to a positive screen result for alcohol. For that reason, Mr. Manley agrees to refrain from using alcohol-based hand sanitizers during the period of probation and agrees that in the event of a positive screen for alcohol that the use

of an alcohol-based hand sanitizer shall not constitute a defense to such a positive screen.

(5) Board Hearing to Determine Violation. After receiving report of any violation of Mr. Manley's MPHP contract, the Board shall investigate the situation, including requiring a response from Mr. Manley. The Board will hold a hearing within 60 days of the automatic suspension or as soon thereafter as practicable (unless both Mr. Manley and the Board agree to hold the hearing later) and it shall be held pursuant to the Maine Administrative Procedure Act.

(6) Releases. Mr. Manley agrees to execute any and all releases necessary for the Board, Board staff, and the Board's assigned Assistant Attorney General to:

- (a) communicate directly with the Maine Medical Professionals Health Program regarding his compliance with that program;
- (b) review and obtain copies of all documentation regarding his participation in the MPHP;
- (c) communicate directly with anyone who is involved with his care and treatment; and
- (d) review and obtain copies of all documentation regarding his medical care and treatment, including treatment for substance abuse issues.

9. Mr. Manley agrees to provide a copy of this Consent Agreement to all current and future supervising physicians and physician workplace monitors, and shall maintain appropriate documentation demonstrating compliance. The Board or Board staff may require Mr. Manley to provide documentation of compliance with this provision at any time and failure to respond to such request within the requested period of time shall be deemed a violation of this Consent Agreement.

10. Violation of any of the terms or conditions of this Consent Agreement by Mr. Manley shall constitute unprofessional conduct and grounds for additional discipline of his license by the Board, including but not limited to

possible civil penalties, additional period(s) of suspension, and revocation of licensure.

11. This Consent Agreement is not appealable, constitutes disciplinary action, is reportable to the National Practitioner Data Bank, the Federation of State Medical Boards, and other licensing jurisdictions, and is effective until modified or rescinded in writing by all of the parties hereto.

12. This Consent Agreement is a public record within the meaning of 1 M.R.S. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. § 408.

13. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto.

14. For the purposes of this Consent Agreement, the term "execution" means the date on which the final signature is affixed to this Consent Agreement.

**I, BRUCE G. MANLEY, PA-C, HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT. I UNDERSTAND THAT BY SIGNING IT, THAT I WAIVE CERTAIN RIGHTS. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT**

AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: 10/29/15


  
BRUCE G. MANLEY, PA-C

STATE OF Maine

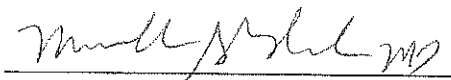
Cumberland, S.S. (County)

Personally appeared before me the above-named Bruce G. Manley, PA-C, and swore to the truth of the foregoing based upon his own personal knowledge, or upon information and belief, and so far as upon information and belief, he believes it to be true.


DATED: 10/29/15

  
KELLY ANNE JARVIS  
Notary Public, Maine  
My Commission Expires March 9, 2021  
NOTARY PUBLIC  
MY COMMISSION ENDS: 3/9/2021

DATED: 11/12/15

  
MAROULLA S. GLEATON, M.D.,  
Chairperson  
MAINE BOARD OF LICENSURE IN  
MEDICINE

DATED: November 3, 2015

  
MICHAEL MILLER,  
Assistant Attorney General  
DEPARTMENT OF THE ATTORNEY  
GENERAL

APPROVED  
EFFECTIVE: